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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2013-158**

12 **JULIE ANN LINDNER**
4320 Modoc Rd., Apt. 1
13 Santa Barbara, CA 93110

A C C U S A T I O N

14 Registered Nurse License No. 769016

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs ("Board").

22 2. On or about February 24, 2010, the Board issued Registered Nurse License No.
23 769016 to Julie Ann Lindner ("Respondent"). The Registered Nurse License was in full force
24 and effect at all times relevant to the charges brought herein and will expire on December 31,
25 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

8. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof. "

9. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.

REGULATORY PROVISION

10. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . .”

COST RECOVERY

11. Section 125.3 provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

12. Respondent's license is subject to disciplinary action under section 490 and section 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444.

1 in that on or about December 13, 2011, Respondent was convicted of a crime substantially related
2 to the qualifications, functions or duties of a registered nurse that to a substantial degree
3 evidences the present or potential unfitness to practice in a manner consistent with the public
4 health, safety, or welfare.

5 a. On or about December 13, 2011, after pleading nolo contendere, Respondent was
6 convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving while
7 under the influence of alcohol] in the criminal proceeding entitled *The People of the State of*
8 *California v. Julie Ann Lindner* (Super. Ct. Santa Barbara County, 2011, No. 1400199). The
9 Court sentenced Respondent to four (4) days in jail, placed her on three (3) years probation, and
10 ordered her to complete a 3-Month Alcohol Program. The circumstances underlying the
11 conviction are as follows:

12 b. On or about October 15, 2011, Police Officers observed a vehicle parked across two
13 handicapped parking spaces at a gas station. Officers approached the driver, the Respondent, and
14 immediately recognized the objective symptoms of alcohol intoxication. Officers asked
15 Respondent if she had consumed any alcohol but she refused to answer. Respondent also refused
16 to take any field sobriety tests, appeared disoriented and gave incoherent responses to questions
17 from the officers. Correspondingly, Respondent was arrested for driving under the influence of
18 alcohol. Respondent was taken back to the police station where she physically struggled and
19 screamed at the officers. A non-consensual blood draw was performed, with the blood sample
20 containing .18% blood alcohol content.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Alcohol Related Conviction)**

23 13. Respondent's license is subject to disciplinary action under section 2761, subdivision
24 (a), and section 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or
25 about December 13, 2011, Respondent was convicted of a crime involving alcoholic beverages.
26 Complainant refers to and by this reference incorporates the allegations set forth above in
27 paragraph 12, subparagraphs a and b, inclusive, as though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 14. Respondent's license is subject to disciplinary action under section 2761, subdivision
4 (a), and section 2762, subdivision (b), on the grounds of unprofessional conduct, in that on or
5 about October 15, 2011, Respondent dangerously used alcoholic beverages to an extent or in a
6 manner dangerous or injurious to herself or others. Complainant refers to and by this reference
7 incorporates the allegations set forth above in paragraphs 12 and 13, inclusive, as though set forth
8 fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Violating Provisions of the Nursing Practice Act)**

11 15. Respondent's license is subject to disciplinary action under section 2761, subdivision
12 (d), for violating provisions of the Nursing Practice Act [§ 2750, et seq.]. Complainant refers to
13 and by this reference incorporates all the allegations contained in paragraphs 12 through 14,
14 inclusive, as though set forth fully.

15 **DISCIPLINE CONSIDERATIONS**

16 16. To determine the degree of discipline, Complainant alleges that on or about
17 September 15, 2004, in a prior criminal proceeding entitled *People of the State of New York v.*
18 *Julie Lindner* in Chautauqua County Superior Court, Case No. 04060402, Respondent was
19 convicted of an infraction for violating New York Vehicle and Traffic Law section 1192.1
20 [driving while ability impaired by consumption of alcohol]. The circumstances underlying the
21 conviction occurred on or about June 27, 2004, where Respondent drove a vehicle while impaired
22 by alcohol. Officers arrested Respondent and took samples of her breath which registered at
23 .12% BAC.

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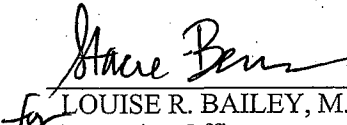
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 769016, issued to Julie Ann Lindner;
2. Ordering Julie Ann Lindner to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: September 5, 2012 
for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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